

Notice of Allowability

Application No.

10/518,888

Examiner

Michael P. Barker

Applicant(s)

ZAMBACH ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/21/04.
2. ☒ The allowed claim(s) is/are 1-3, 5-7 and 9-12.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 12/21/04 & 3/18/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Applicant canceled **Claims 4 and 8** and added **Claims 9-12**. **Claims 1, 6, 7, and 12** are amended via Examiner's Amendment, infra. **Claims 1-3, 5-7, and 9-12** are pending and **ALLOWED**.

Response to Remarks/Arguments

In response to the Restriction Requirement filed August 24, 2006, Applicant's election of Group I, **Claims 1-7**, is acknowledged. As a result of the election, Applicant canceled **Claims 4 and 8** and added **Claims 9-12**.

The entirety of Group I was searched and found to be free of prior art. Therefore, the Restriction Requirement is withdrawn.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Rebecca Gegick on November 9, 2006.

The application has been amended as follows:

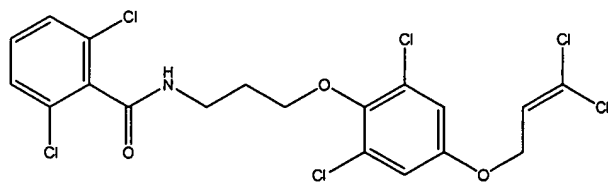
1. **Claim 1**, p. 4, line 14, after the words, "k," delete the words, "when D is nitrogen, is 1, 2 or 3;"

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2. **Claim 6**, p. 5, line 2, after the words, "which comprises", delete the word, "intimately".
 3. **Claim 6**, p. 5, lines 2-3, after the words, "mixing the active ingredient", add the words, ",of formula I, according to claim 1,".
 4. **Claim 6**, p. 5, line 3, delete the words, "the adjuvant(s)", and add the words, "with at least one adjuvant".
 5. **Claim 7**, p. 5, line 2, after the words, "or to the locus", delete the word, "thereof".
 6. **Claim 12**, p. 5, line 2, after the words, "or to the locus", delete the word, "thereof".
- No other amendments are required.

Reasons for Allowance

Applicant's invention is drawn to pesticidal compounds and compositions according to formula I of **Claim 1**, as well as a method of using those compounds and compositions. There is no prior art which anticipates or renders Applicant's instantly claimed compounds and compositions obvious. The closest prior art is disclosed in U.S. Patent No. 5,952,386, issued September 14, 1999. The '386 patent discloses various phenyl-substituted insecticides. Compounds disclosed in the '386 patent such as compounds (15) at col. 82,



, while similar to the instantly claimed compounds from the dichlorides to the nitrogen atom, do not meet the limitations of the instantly claimed compounds. Therefore, because there is no art which anticipates or renders obvious Applicant's invention, **Claims 1-3, 5-7, and 9-12** are ALLOWED.

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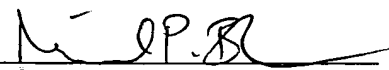
Conclusion

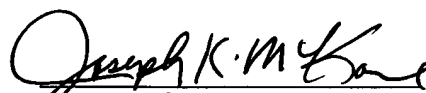
The restriction requirement is withdrawn. **Claims 1-3, 5-7, and 9-12** are ALLOWED.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Barker whose telephone number is (571) 272-4341. The examiner can normally be reached on Monday-Friday 8:00 AM- 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699. The unofficial fax phone for this group are (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is viable through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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